



City Council Chambers  
3300 Capitol Avenue  
Fremont, California

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### City Council

Bob Wasserman, Mayor  
Anu Natarajan, Vice Mayor  
Bob Wieckowski  
Bill Harrison  
Suzanne Lee Chan

### City Staff

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Harvey E. Levine, City Attorney  
Melissa Stevenson Dile, Deputy City Manager

Dawn G. Abrahamson, City Clerk  
Harriet Commons, Finance Director  
Marilyn Crane, Information Technology Svcs. Dir.  
Daren Fields, Economic Dev. Director  
Mary Kaye Fisher, Interim Human Resources Dir.  
Annabell Holland, Parks & Recreation Dir.  
Norm Hughes, City Engineer  
Jill Keimach, Community Dev. Director  
Bruce Martin, Fire Chief  
Jim Pierson, Transportation & Ops Director  
Jeff Schwob, Planning Director  
Suzanne Shenfil, Human Services Director  
Craig Steckler, Chief of Police  
Elisa Tierney, Redevelopment Director

## City Council Agenda and Report [Redevelopment Agency of Fremont]

### General Order of Business

1. Preliminary
  - Call to Order
  - Salute to the Flag
  - Roll Call
2. Consent Calendar
3. Ceremonial Items
4. Public Communications
5. Scheduled Items
  - Public Hearings
  - Appeals
  - Reports from Commissions, Boards and Committees
6. Report from City Attorney
7. Other Business
8. Council Communications
9. Adjournment

### Order of Discussion

Generally, the order of discussion after introduction of an item by the Mayor will include comments and information by staff followed by City Council questions and inquiries. The applicant, or their authorized representative, or interested citizens, may then speak on the item; each speaker may only speak once to each item. At the close of public discussion, the item will be considered by the City Council and action taken. Items on the agenda may be moved from the order listed.

### Consent Calendar

Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which case the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address the City Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.



## Addressing the Council

Any person may speak once on any item under discussion by the City Council after receiving recognition by the Mayor. Speaker cards will be available prior to and during the meeting. To address City Council, a card must be submitted to the City Clerk indicating name, address and the number of the item upon which a person wishes to speak. When addressing the City Council, please walk to the lectern located in front of the City Council. State your name. In order to ensure all persons have the opportunity to speak, a time limit will be set by the Mayor for each speaker (see instructions on speaker card). In the interest of time, each speaker may only speak once on each individual agenda item; please limit your comments to new material; do not repeat what a prior speaker has said.

## Oral Communications

Any person desiring to speak on a matter which is not scheduled on this agenda may do so under the Oral Communications section of Public Communications. Please submit your speaker card to the City Clerk prior to the commencement of Oral Communications. **Only those who have submitted cards prior to the beginning of Oral Communications will be permitted to speak.** Please be aware the California Government Code prohibits the City Council from taking any immediate action on an item which does not appear on the agenda, unless the item meets stringent statutory requirements. The Mayor will limit the length of your presentation (see instructions on speaker card) and each speaker may only speak once on each agenda item.

**To leave a voice message for all Councilmembers and the Mayor simultaneously, dial 284-4080.**

**The City Council Agendas may be accessed by computer at the following Worldwide Web Address: [www.fremont.gov](http://www.fremont.gov)**

## Information

Copies of the Agenda and Report are available in the lobbies of the Fremont City Hall, 3300 Capitol Avenue and the Development Services Center, 39550 Liberty Street, on Friday preceding a regularly scheduled City Council meeting. Supplemental documents relating to specific agenda items are available at the Office of the City Clerk.

The regular meetings of the Fremont City Council are broadcast on Cable Television Channel 27 and can be seen via webcast on our website ([www.Fremont.gov](http://www.Fremont.gov)).

Assistance will be provided to those requiring accommodations for disabilities in compliance with the Americans with Disabilities Act of 1990. Interested persons must request the accommodation at least 2 working days in advance of the meeting by contacting the City Clerk at (510) 284-4060. Council meetings are *open captioned* for the deaf in the Council Chambers and *closed captioned* for home viewing.

## Availability of Public Records

All disclosable public records relating to an open session item on this agenda that are distributed by the City to all or a majority of the City Council less than 72 hours prior to the meeting will be available for public inspection in specifically labeled binders located in the lobby of Fremont City Hall, 3300 Capitol Avenue during normal business hours, at the time the records are distributed to the City Council.

Information about the City or items scheduled on the Agenda and Report may be referred to:

Address: City Clerk  
City of Fremont  
3300 Capitol Avenue, Bldg. A  
Fremont, California 94538  
Telephone: (510) 284-4060

*Your interest in the conduct of your City's business is appreciated.*

**NOTICE AND AGENDA OF SPECIAL MEETING  
CLOSED SESSION**

**CITY OF FREMONT**

**DATE:** Tuesday, February 10, 2009

**TIME:** 6:30 p.m.

**LOCATION:** Fremont Room, 3300 Capitol Avenue, Fremont

The City will convene a special meeting. It is anticipated the City will immediately adjourn the meeting to a closed session to confer with and receive advice from its attorney regarding existing litigation in one matter, as follows:

**CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION**

This Closed Session is authorized by subdivision (a) of Section 54956.9 of the Government Code and will pertain to existing litigation in one matter.

Hughes, Michael v. City of Fremont, Case No. RG06253026

This Special Meeting is being called by Mayor Wasserman.



**AGENDA**  
**FREMONT CITY COUNCIL REGULAR MEETING**  
**FEBRUARY 10, 2009**  
**COUNCIL CHAMBERS, 3300 CAPITOL AVE., BUILDING A**  
**7:00 P.M.**

**1. PRELIMINARY**

- 1.1 Call to Order
- 1.2 Salute the Flag
- 1.3 Roll Call
- 1.4 Announcements by Mayor / City Manager

**2. CONSENT CALENDAR**

*Items on the Consent Calendar are considered to be routine by the City Council and will be enacted by one motion and one vote. There will be no separate discussion of these items unless a Councilmember or citizen so requests, in which event the item will be removed from the Consent Calendar and considered separately. Additionally, other items without a "Request to Address Council" card in opposition may be added to the consent calendar. The City Attorney will read the title of ordinances to be adopted.*

- 2.1 *Motion to Waive Further Reading of Proposed Ordinances  
(This permits reading the title only in lieu of reciting the entire text.)*
- 2.2 *Approval of Minutes for the Regular Meeting of January 27, 2009.*
- 2.3 **NILES BOULEVARD BRIDGE REPLACEMENT PROJECT - CONSULTANT AGREEMENT AMENDMENT**  
*Approval of an Amendment to the Professional Services Agreement with Quincy Engineering, Inc., to Complete the Design Services for the Niles Boulevard Bridge Replacement Project, City Project 8460(PWC)*

**Contact Person:**

<b>Name:</b>	<i>Jeanne Suyeishi</i>	<i>Norm Hughes</i>
<b>Title:</b>	<i>Associate Civil Engineer</i>	<i>City Engineer</i>
<b>Dept.:</b>	<i>Community Development</i>	<i>Community Development</i>
<b>Phone:</b>	<i>510-494-4728</i>	<i>510-494-4748</i>
<b>E-Mail:</b>	<i>jsuyeishi@fremont.gov</i>	<i>nhughes@fremont.gov</i>

**RECOMMENDATIONS:**

1. *Authorize the City Manager or his designee to execute Amendment No. 1 to the Service Agreement for Niles Boulevard Bridge Replacement Project, City Project 8460(PWC) for Design Services with Quincy Engineering, Inc., in an amount not to exceed \$119,800.*
2. *Authorize the appropriation of \$1,247,936 of Proposition 1B Funds to 528PWC8460.*

**2.4 FREMONT FAMILY RESOURCE CENTER GRANTS**

*Appropriation of \$65,720 from the San Francisco Foundation, the East Bay Community Foundation, and the United Way of the Bay Area for the Fremont Family Resource Center Family Economic Success Program*

**Contact Person:**

<b>Name:</b>	<i>Judy Schwartz</i>	<i>Suzanne Shenfil</i>
<b>Title:</b>	<i>FRC Administrator</i>	<i>Director</i>
<b>Dept.:</b>	<i>Human Services</i>	<i>Human Services</i>
<b>Phone:</b>	<i>510-574-2007</i>	<i>510-574-2051</i>
<b>E-Mail:</b>	<i>jschwartz@fremont.gov</i>	<i>sshensfil@fremont.gov</i>

*RECOMMENDATION: Appropriate a total of \$65,720 to Fund 992, including funding from the San Francisco Foundation for \$25,000, East Bay Community Foundation for \$20,720, and United Way of the Bay Area for \$20,000.*

**3. CEREMONIAL ITEMS**

- 3.1 Proclamation: Spay Day USA, February 26, 2009

**4. PUBLIC COMMUNICATIONS**

- 4.1 Oral and Written Communications

**REDEVELOPMENT AGENCY – None.**

**PUBLIC FINANCING AUTHORITY – None.**

**CONSIDERATION OF ITEMS REMOVED FROM CONSENT CALENDAR**

## **5. SCHEDULED ITEMS**

- 5.1 HASTINGS STREET MIXED-USE DEVELOPMENT – VACANT LOT AT THE NORTHEAST CORNER OF HASTINGS STREET AND CAPITOL AVENUE  
Public Hearing (Published Notice) to Consider a Planning Commission Recommendation for a Rezoning from Central Business District (C-B-D) to Planned District (P-2008-177), Tentative Tract Map 7996 to Create Twelve Residential Condominiums, Twelve Office Condominiums and Six Commercial Condominiums, and a Preliminary Grading Plan for a 4-Story Mixed-Use Development on a Vacant 0.82-acre Lot Located in the Central Planning Area (PLN2008-00177)

**Contact Person:**

Name:	Steve Kowalski	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4532	510-494-4527
E-Mail:	skowalski@fremont.gov	jschwob@fremont.gov

**RECOMMENDATIONS:**

1. Hold public hearing;
2. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan as shown in Exhibit “A”, and find that this action reflects the independent judgment of the City of Fremont;
3. Find that Planned District P-2008-177, Tentative Tract Map 7996, and the proposed Precise Plan and Preliminary Grading Plan as shown in Exhibits “C”, “D” and “E”, respectively, are consistent with the current General Plan and fulfill the applicable requirements set for in the Fremont Municipal Code;
4. Waive full reading and introduce an ordinance rezoning the subject property from Central Business District (C-B-D) to Planned District P-2008-177, as shown on Exhibit “B”, and adopting Exhibit “C” (Planned District P-2008-177 Development Plans), Exhibit “D” (Tentative Tract Map) and Exhibit “E” (Preliminary Grading Plan) together with the findings and conditions in Exhibit “F” as the Precise Plan for P-2008-177;
5. Approve Tentative Tract Map 7996, and the proposed Preliminary Grading Plan as depicted in Exhibits “D” and “E”, respectively, based on the findings and subject to the conditions of approval contained in Exhibit “F”; and
6. Direct staff to prepare and the City Clerk to publish a summary of the above ordinance.

## **6. REPORT FROM CITY ATTORNEY**

- 6.1 Report Out from Closed Session of Any Final Action

## **7. OTHER BUSINESS**

- 7.1 APPLICATION FOR MEMBERSHIP ON THE SAN FRANCISCO BAY RESTORATION AUTHORITY BOARD  
Invitation to Apply to Serve on the San Francisco Bay Restoration Authority Board

Contact Person:

Name:	Maya Williams	Melissa Dile
Title:	Management Analyst	Deputy City Manager
Dept.:	City Manager's Office	City Manager's Office
Phone:	510-284-4013	510-284-4005
E-Mail:	mwilliams@fremont.gov	mdile@fremont.gov

RECOMMENDATION: Consider and discuss the invitation to serve on the San Francisco Bay Restoration Authority Board.

## **8. COUNCIL COMMUNICATIONS**

### **8.1 Council Referrals**

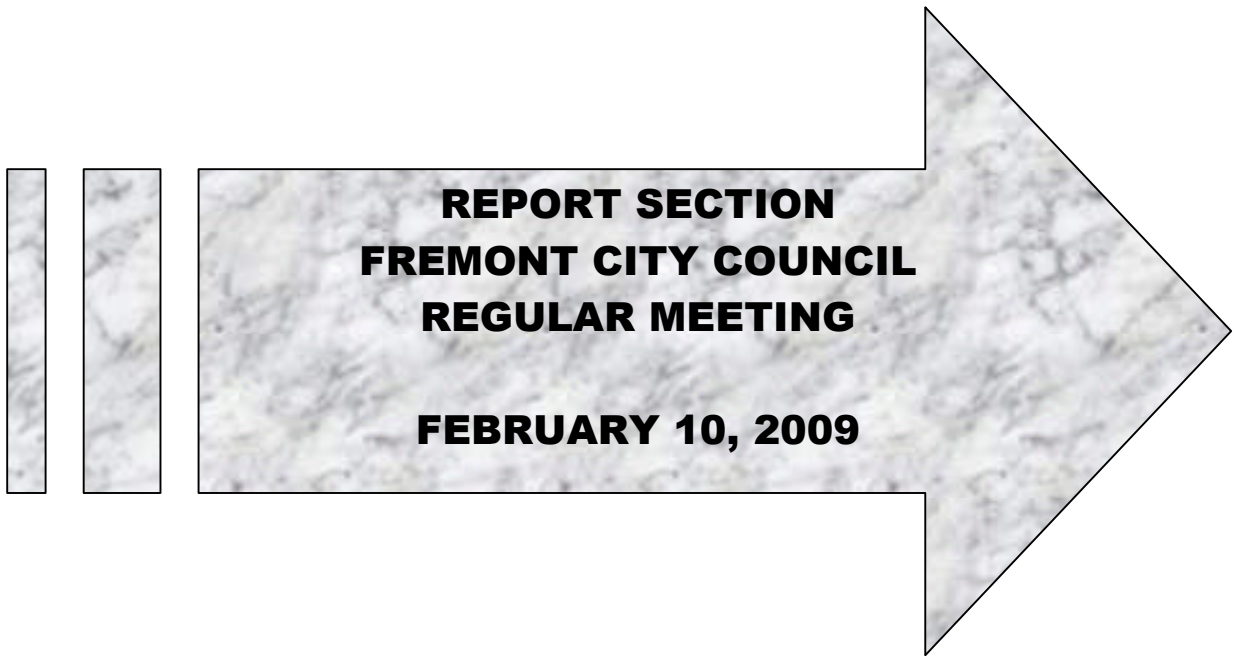
8.1.1 MAYOR WASSERMAN REFERRAL: Appointments and Reappointments to Advisory Bodies

8.1.2 MAYOR WASSERMAN REFERRAL: Appointments to Outside Commissions, Committees and Boards

### **8.2 Oral Reports on Meetings and Events**

## **9. ADJOURNMENT**







**\*2.3 NILES BOULEVARD BRIDGE REPLACEMENT PROJECT - CONSULTANT AGREEMENT AMENDMENT**

**Approval of an Amendment to the Professional Services Agreement with Quincy Engineering, Inc., to Complete the Design Services for the Niles Boulevard Bridge Replacement Project, City Project 8460(PWC)**

**Contact Person:**

Name:	Jeanne Suyeishi	Norm Hughes
Title:	Associate Civil Engineer	City Engineer
Dept.:	Community Development	Community Development
Phone:	510-494-4728	510-494-4748
E-Mail:	jsuyeishi@fremont.gov	nhughes@fremont.gov

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**Executive Summary:** The purpose of this report is to request that the City Council authorize the City Manager or his designee to execute an amendment to the Professional Services Agreement with Quincy Engineering, Inc., to complete the civil design and structural design services for the Niles Boulevard Bridge Replacement Project, City Project 8460(PWC). The original contract for design services was executed in 2001 in the amount of \$246,400. This amendment is necessary to account for the addition of the civil design services along with the increase in structural design service costs and a rate adjustment since the original contract was approved. The amount of the contract amendment is not to exceed \$119,800.

**BACKGROUND:** The sixth and final bridge identified by Caltrans for seismic retrofit (Niles Boulevard Overhead) will be replaced rather than retrofitted, due to unacceptably high construction costs and long closures of the existing bridge associated with the seismic retrofit option. The replacement of the bridge with a parallel structure, to be followed by demolition of the existing bridge, allows for a better use of public funds and requires only a few days of bridge closure versus several months with the retrofit.

On October 3, 2000, the City Council directed staff to proceed with the bridge replacement option instead of the seismic retrofit of the Niles Boulevard Overhead. On March 5, 2001, staff obtained authorization from Caltrans to proceed with preliminary engineering, thus obligating the State and federal funds required for the activities included in preliminary engineering. On July 3, 2001, City Council approved the consultant agreement with Quincy Engineering, Inc.

Staff prepared and submitted the environmental document to Caltrans in March 2002. Caltrans did not approve the environmental document until November 7, 2007, after a 5 1/2 year delay due to a shortage of Caltrans staff and lack of Caltrans coordination with FHWA. Between July 2001 and November 2007, Quincy Engineering was only able to proceed with preliminary drawings. Final design could not start in advance of receiving environmental approval without jeopardizing the federal and State funds.

**Discussion:** Quincy Engineering's current contract is for bridge design services only. Staff had planned to prepare the civil engineering plans for the approaches to the new bridge. However, due to current staff commitments on other high priority projects and the cost and time of coordinating between City staff and Quincy, staff now recommends including the civil design in Quincy's scope. The cost to include the

civil design services is \$97,600. Quincy Engineering, Inc., is highly qualified in civil design as well as structural design and has worked extensively with projects of a similar nature.

Since receiving environmental approval, staff, along with Quincy Engineering, has been working on the construction documents. The current schedule has the start of construction scheduled for fall 2009.

**Rate Increase:** The original contract with Quincy Engineering for structural design services was executed in 2001 in the amount of \$246,400. Quincy Engineering provided their cost to complete the structural design services using updated hourly rates. This amounted in an increase in cost of \$22,200.

**Proposition 1B Funds:** The voters of the State of California passed Proposition 1B on November 7, 2006, which created a Local Bridge Seismic Retrofit Account. Prop 1B funds were made available to provide the 11.5 percent match for federal highway bridge funds. Staff requested and was allocated \$1,247,936 of the Prop 1B funds for the construction phase of the project. On October 28, 2008, Caltrans executed the Project Cost, Scope and Delivery Schedule Baseline Data for the Niles Boulevard Bridge Replacement project, thus securing the Prop 1B funds for this project. On December 19, 2008, staff was notified that disbursements to all bond-funded projects were suspended until further notice due to the underlying budget issues at the State.

At this time, staff recommends that City Council appropriate the \$1,247,936 of Prop 1B funds to this project in anticipation that the funding will be available at the time of award of the construction contract, or soon thereafter. If funding is not received, staff will return to Council with an action to amend the budget accordingly.

**Environmental Review:** An initial study and Draft Mitigated Negative Declaration, PLN2002-00290, were prepared and circulated for the proposed project and found there is no evidence the project would have any potential for adverse effect on wildlife resources. City Council adopted the draft mitigated negative declaration and approved the mitigation monitoring plan at the September 9, 2003 City Council meeting. No changes to the project or its circumstances have occurred and no new information has become available since adoption of the project mitigated negative declaration that would require preparation of additional environmental documentation.

**Project Costs and Funding:** The following is a summary of estimated project costs for the bridge replacement:

Environmental Consultants	\$52,000
Design Consultant (Quincy Engineering)	\$246,400
<i>Design Consultant (Quincy Engineering) Amendment to Agreement</i>	<i>\$119,800</i>
Independent Check Consultant (URS Corporation)	\$71,520
Staff – Design	\$200,000
BART Costs	\$25,000
UPRR Costs	\$50,000
Construction Cost	\$8,830,000
Construction Administration & Inspection	\$1,325,000
Project Contingency *	\$883,000
<b>TOTAL</b>	<b>\$11,802,720</b>

\*The estimated costs include a 10% contingency.

Funding for the project is as follows:

<u>Source</u>	<u>Description</u>	
Fund 132	Gas Tax	\$300,000
Fund 142	Gas Tax	\$506,000
Fund 522	Highway Bridge Replacement & Rehabilitation (HBRR) Funds	\$352,000
Fund 525	Miscellaneous State Revenue (Seismic Retrofit Funds)	\$88,000
<i>Fund 528</i>	<i>Proposition 1B Funds</i>	<i>\$1,247,936</i>
<i>Fund 522</i>	<i>Highway Bridge Rehabilitation &amp; Replacement (HBRR) Funds for Construction **</i>	<i>\$9,632,064</i>
	<b>TOTAL</b>	<b>\$12,126,000</b>

\*\*The HBRR Funds for construction will be determined after bids are opened.

**ENCLOSURE:** None

**RECOMMENDATIONS:**

1. Authorize the City Manager or his designee to execute Amendment No. 1 to the Service Agreement for Niles Boulevard Bridge Replacement Project, City Project 8460(PWC) for Design Services with Quincy Engineering, Inc., in an amount not to exceed \$119,800.
2. Authorize the appropriation of \$1,247,936 of Proposition 1B Funds to 528PWC8460.

**\*2.4 FREMONT FAMILY RESOURCE CENTER GRANTS**

**Appropriation of \$65,720 from the San Francisco Foundation, the East Bay Community Foundation, and the United Way of the Bay Area for the Fremont Family Resource Center Family Economic Success Program**

**Contact Person:**

Name:	Judy Schwartz	Suzanne Shenfil
Title:	FRC Administrator	Director
Dept.:	Human Services	Human Services
Phone:	510-574-2007	510-574-2051
E-Mail:	jschwartz@fremont.gov	sshenfil@fremont.gov

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**Executive Summary:** The purpose of this item is to request the Council to appropriate grant awards from three funding entities totaling \$65,720 for use by the Family Resource Center (FRC). The East Bay Community Foundation, San Francisco Foundation, and United Way of the Bay Area grants will expand the FRC's Family Economic Success (FES) program's capacity to meet the need for integrated financial counseling and literacy, family case management, and tax preparation.

**BACKGROUND:** Since 2003, the Family Resource Center has provided free income tax preparation services to low income families through the IRS sponsored Volunteer Income Tax Assistance (VITA) Program. Each year, the FRC has added additional service components to assist low income Tri-City families to access needed services and new skills in order to become financially self sufficient and thrive. Together, these components comprise the FRC Family Economic Success (FES) Program, which now includes family case management, financial literacy classes and counseling, back tax preparation, benefits screening and application assistance, and IDA matched savings accounts.

The FRC FES Program is sustained by revenue from numerous grants and contracts, in addition to the General Fund contribution that supports the FRC Case Managers. On November 13, 2008, the San Francisco Foundation approved a grant request for \$25,000 for one year (1/01/09 – 12/31/09) for financial counseling to families on how to improve their lives through education, employment and strategies for financial literacy and asset building. Also, on November 21, 2008, the East Bay Community Foundation approved a grant request of \$20,720 for one year (11/15/08 - 11/14/09) to support the FES Project. Lastly, on January 12, 2009, United Way of the Bay Area approved an award of \$20,000 for costs associated with the "Earn It! Keep it! Save It!" Volunteer Income Tax Assistance (VITA) program. This item requests the Council appropriate these grant awards from the San Francisco Foundation, East Bay Community Foundation, and United Way of the Bay Area.

**ENCLOSURE:** None

**RECOMMENDATION:** Appropriate a total of \$65,720 to Fund 992, including funding from the San Francisco Foundation for \$25,000, East Bay Community Foundation for \$20,720, and United Way of the Bay Area for \$20,000.

**5.1 HASTINGS STREET MIXED-USE DEVELOPMENT – VACANT LOT AT THE NORTHEAST CORNER OF HASTINGS STREET AND CAPITOL AVENUE**  
**Public Hearing (Published Notice) to Consider a Planning Commission Recommendation for a Rezoning from Central Business District (C-B-D) to Planned District (P-2008-177), Tentative Tract Map 7996 to Create Twelve Residential Condominiums, Twelve Office Condominiums and Six Commercial Condominiums, and a Preliminary Grading Plan for a 4-Story Mixed-Use Development on a Vacant 0.82-acre Lot Located in the Central Planning Area (PLN2008-00177)**

**Contact Person:**

Name:	Steve Kowalski	Jeff Schwob
Title:	Associate Planner	Planning Director
Dept.:	Community Development	Community Development
Phone:	510-494-4532	510-494-4527
E-Mail:	skowalski@fremont.gov	jschwob@fremont.gov

**Executive Summary:** The applicant is proposing to construct a four-story mixed-use building on a vacant 0.82-acre lot located at the corner of Hastings Street and Capitol Avenue in the Central Planning Area. The building will feature up to six (6) ground-floor retail spaces, up to twelve (12) second-floor medical office suites, and twelve (12) two-story residential condominiums on the third and fourth floors. A two-level underground parking garage will be constructed beneath the building with driveway access provided off Hastings Street. On January 8, 2009 the Planning Commission reviewed the proposal and recommended by a unanimous vote of 5-0-0-1 (with one Commissioner absent and one seat vacant) that the City Council approve the requested entitlements and Mitigated Negative Declaration and Mitigation Monitoring Plan based on the findings and subject to the conditions of approval contained in Exhibit "F", attached.

**BACKGROUND:** The subject property was created as part of Parcel Map 5395 which was recorded in 1988. This parcel map included a joint-use parking agreement with the parcel immediately to the north/northeast at the corner of Capitol Avenue and Paseo Padre Parkway. On November 8, 2001, the Planning Commission approved a Finding for Site Plan and Architectural Review and a Preliminary Grading Plan for a 4-story hotel with ground-floor retail space at the site (Hampton Inn - PLN2001-00362). On December 4, 2001, the City Council approved a Floor Area Ratio increase for the same project. For economic reasons, the hotel project was never built and the property was subsequently purchased by the Hastings Medical Association, the sponsor of this application.

**Project Description:** The applicant is proposing to construct a 4-story mixed-use building with up to six ground-floor retail commercial condominium tenant spaces, up to 12 second-floor medical office condominiums, and 12 two-story residential condominiums on the third and fourth floors. The gross floor area of the proposed building will measure 66,348 square feet, with the ground floor measuring 17,783 square feet, the second floor measuring 21,965 square feet, and the two residential floors measuring a combined 26,600 square feet. The retail spaces will range in size from  $\pm 1,700$  to  $\pm 2,900$  square feet, while the medical offices will range from  $\pm 1,125$  to  $\pm 2,000$  square feet and the residential units from  $\pm 1,450$  to  $\pm 2,630$  square feet. All of the units in the building, including the commercial spaces on the ground floor, are intended to be sold individually.

A two-level underground parking garage will be constructed beneath the building. The parking garage will contain 104 parking spaces: 24 will be reserved for the 12 residential condominium units, and the remaining 80 will be available for use by employees and patrons of the retail and medical office condominiums. Four motorcycle spaces will also be provided on the first level of the garage. Two separate elevators will provide access from the garage to street level and the upper floors. The plan also features 56 surface parking spaces, eleven of which are located on site at the side and rear of the building, and 27 shared with the property immediately to the northeast through an existing parking agreement already recorded on the title of both properties. Another 18 on-street spaces will be provided along Hastings Street and Capitol Avenue immediately adjacent to the project site.

The ground floor is expected to contain a mix of retail, personal service and restaurant uses occupying the five tenant spaces facing the sidewalk, as well as either a medical-affiliated use such as a pharmacy or laboratory or a professional office in the sixth interior space at the back of the building. The dividing walls shown on the floor plan in Exhibit “C” are only conceptual in nature and may be adjusted to meet the needs of the individual tenants. The medical suites are intended to be complimentary to each other and capable of providing coordinated, comprehensive care in a single location for the convenience of the patients similar to a hospital or medical campus environment (see Informational Item #3).

## **Project Analysis**

**General Plan Conformance:** The General Plan land use designation for the project site is Central Business District. This land use designation is intended to provide for a mix of land uses including retail, service, office, government and cultural uses in a compact, well-defined area to encourage a lively, pedestrian-friendly environment in the city’s center as opposed to an office district that is only busy during the workweek and depopulated on evenings and weekends. The following General Plan Land Use and Local Economy goals, objectives and policies are applicable to the proposed project:

- **Fundamental Land Use Goal F5** – *A vibrant, well-defined, visually distinctive central business district as the focus of the City’s governmental, cultural, and commercial activity.*
- **Land Use Policy 2.7** – *Site design and building development in the Central Business District shall be oriented toward pedestrians and transit. To maintain an active pedestrian environment, buildings oriented towards streets, sidewalks or public plazas shall be strongly encouraged. Retail uses shall be encouraged at the ground level. Building orientation, setbacks, parking locations and building design shall be evaluated for how each element encourages continuity between developments.*
- **Land Use Policy 2.8** – *Central Business District developments shall provide safe, convenient and continuous pedestrian walkways linking building entrances to street sidewalks, crossings, and linking building entrances to adjacent building entrances, activity centers and transit, as illustrated in the Central Business District’s Central Area Conceptual Pedestrian Connection Plan.*
- **Local Economy Objective LE 3.4** – *Higher intensity commercial uses near CBD and Irvington BART stations.*



- **Local Economy Policy LE 3.4.1** – *Permit the highest intensity of commercial use (including hotels) in the CBD within convenient walking distance of the Fremont BART station.*

### Analysis

The proposal features a pedestrian-friendly design with storefronts opening out onto wide sidewalks, parking located underground and to the rear of the building, and landscaped bulb-outs designed to calm traffic on the adjacent streets. The development will have retail and restaurant uses on the ground floor, which will help enliven the street, and the residential units will ensure that there is a 24-hour presence in the area. The site is located approximately ½ mile from the Fremont BART station and numerous Alameda County Transit bus lines run past the area on Mowry Avenue and Paseo Padre Parkway. Public transportation and walking also provide reasonable transportation alternatives to the site. Finally, the proposal features a Floor Area Ratio (FAR) of 1.85 to maximize the use of the land, slightly under the maximum 2.0 FAR allowed by the Zoning Ordinance for mixed-use projects located in the CBD within ½ mile of BART.

**Central Business District Concept Plan Conformance:** In November 2001, the City Council adopted the Central Business District Concept Plan in an effort to encourage new developments in the CBD to be pedestrian-scaled in order to create a vibrant city center containing a mix of uses designed to generate round-the-clock activity in the area. Primary concepts put forth by the plan include the creation of a pedestrian friendly Main Street-style streetscape along Capitol Avenue with wide sidewalks, street trees and furniture, the provision of retail uses on ground floors of buildings having little or no setbacks, and allowing parking reductions and the provision of on-street and structured parking to reduce the need for large amounts of on-site parking at each development and help calm traffic throughout the area.

The project conforms to the CBD Concept Plan by providing a mix of uses that will increase activity in the area by providing retail, restaurant and service uses on the ground floor and residential units above. The building features zero setbacks along both street frontages, and the developer will construct 14-foot wide sidewalks per City standard with large-canopy shade trees, decorative paving and street furniture. Angled on-street parking will also be provided along both street frontages to separate the sidewalk from vehicular traffic and reduce traffic speeds adjacent to the site. The project also features an underground parking garage to further reduce the amount of surface-level site area needed for parking. In order to ensure that the uses occupying the building will contribute to a pedestrian-oriented environment, conditions of approval have been included limiting the ground floor spaces to those uses permitted in the C-B-D zone, and requiring the developer to seek out a restaurant use for the primary tenant space at the corner for a minimum 1-year period. Office uses will be prohibited on the ground floor except in the space at the rear of the building to further encourage occupancy of the spaces by businesses that cater to pedestrian traffic such as restaurants and retail shops.

**Zoning Ordinance Compliance:** The subject property is zoned Central Business District (C-B-D), and mixed-use developments may be considered in the C-B-D zone subject to approval of a Planned District rezoning by the City Council. In addition to the establishment of a Planned District, the applicant is requesting approval of a tentative tract map to create 6 commercial spaces, 12 residential condominiums and 12 office condominiums, as well as a preliminary grading plan to allow the excavation of approximately 12,675 cubic yards of earth to accommodate the underground parking garage.

*Rezoning to Establish a New Planned District:*

Under Fremont Municipal Code (FMC) Section 8-21813, the City Council may adopt an ordinance establishing a new Planned District (or P district) if the following findings can be made:

- (a) The proposed P district, or a given unit thereof, can be substantially completed within four years of the establishment of the P district;
- (b) Each individual unit of development, as well as the total development, can exist as an independent unit capable of creating an environment of sustained desirability and stability or that adequate assurance will be provided that such objective will be attained; the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts;
- (c) The streets and thoroughfares proposed are suitable and adequate to carry anticipated traffic, and increased densities will not generate traffic in such amounts as to overload the street network outside the P district;
- (d) Any proposed commercial development can be justified economically at the location(s) proposed to provide for adequate commercial facilities of the types proposed;
- (e) Any exception from standard ordinance requirements is warranted by the design and amenities incorporated in the precise site plan, in accord with adopted policy of the Planning Commission and City Council;
- (f) The area surrounding said development can be planned and zoned in coordination and substantial compatibility with the proposed development;
- (g) The P district is in conformance with the General Plan of the City of Fremont; and
- (h) Existing or proposed utility services are adequate for the population densities proposed.

It is staff's opinion that the above findings can be made for the following reasons. If the project is approved, the applicant expects to complete construction in 2011, well within 4 years of the approval date of the Planned District. The project will not be detrimental to the surrounding uses or impair their ability to be planned in coordination with the project in that it will be designed and improved to provide for connectivity to the adjacent parcels both via internal circulation routes and through the provision of new public right-of-way improvements and street lane striping. In addition, the project will be able to function on its own in that it will feature a mix of uses that not only cater to patrons visiting the site, but also to the residents and medical office employees who will occupy the upper floors; therefore, the project will generate round-the-clock activity at the site.

In addition, the uses proposed will not be detrimental to present and potential surrounding uses, but will have a beneficial effect which could not be achieved under other zoning districts in that the mix of residential, office and commercial uses all at one site will generate a steady level of activity in the area that could have spillover benefits for nearby commercial developments. The proposed commercial component can also be justified at the location in that it will provide convenient retail and personal service options for the residents and the owners of the medical suites on the upper floors and reduce the need to drive off-site to obtain certain goods and services.

A traffic study was conducted for the project by Hexagon Transportation Consultants, Inc. in June 2008 which found that the proposal will not have a significant impact on the surrounding street network. The applicant is requesting a 23-space parking reduction, or 14% of the parking required by the Zoning Ordinance. However, it is staff's opinion that the requested reduction is warranted in this case because

the project is consistent with numerous policies contained in the Central Business District Concept Plan and Mixed-Use Development Ordinance that encourage allowing parking reductions in that it provides both structured and on-street parking, a pedestrian-friendly design with zero setbacks, wide sidewalks and surface parking to the rear of the site, a mix of uses that will not have excessive overlapping of peak business hours, and access to various forms of public transportation.

In addition, the project area is also already served by existing utilities, including domestic water and sewer systems that according to the local utility service providers are capable of supporting the proposed development. Finally, the proposal is consistent with the General Plan and Central Business District Concept Plan in that it will provide a mix of uses and bring new permanent residents downtown, which will help increase activity in the area in the evenings and on weekends.

*Tentative Tract Map:*

Under FMC Section 8-1418, the City Council may approve a Tentative Tract Map if it can make the following findings:

- a. The map meets or performs all of the requirements or conditions imposed by the Subdivision Map Act and the Subdivisions Ordinance;
- b. The proposed subdivision, together with the provisions for its design and improvements, is consistent with the General Plan and the Central Business District Concept Plan;
- c. The site is physically suitable for the type or proposed density of development;
- d. The design of the subdivision or the proposed improvements is not likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat;
- e. The design of the subdivision or the type or improvements is not likely to cause serious public health problems; and
- f. The design of the subdivision or the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of property within the proposed subdivision.

It is staff's opinion that the proposed tentative map satisfies the procedural requirements and conditions of the Subdivision Map Act and the Subdivisions Ordinance, while also being consistent with the General Plan land use designation and the Central Business District Concept Plan in that it features a mix of land uses that will help to increase overall activity levels in the downtown area. The site is also well suited for the proposed density in that it is situated in the heart of the central business district on the corridor which is slated to become the primary downtown street in the CBD Concept Plan.

In addition, the subdivision has been designed in a manner which maximizes the use of the land while still being compatible with the surrounding land uses in that it maximizes the allowable floor area ratio to develop the site to its fullest potential without overwhelming adjacent buildings, and is designed to connect to the adjacent properties via existing and proposed driveways and parking lot drive aisles. The subdivision will not block or otherwise interfere with any existing public easements, and will benefit the neighborhood by installing new, pedestrian-friendly street improvements along both the Hastings and Capitol street frontages and re-striping existing traffic lanes on the two streets to conform to the new improvements. The adoption of the Mitigated Negative Declaration for the Planned District will ensure that the project does not have an adverse impact on the environment or the surrounding neighborhood

and public improvements, and the environmental impact analysis concluded that no fish or wildlife habitat or other natural resources would be impacted by the proposal.

*Preliminary Grading Plan:*

Under FMC Section 8-4109, the Council must make the following findings in order to approve a Preliminary Grading Plan:

- a. The proposed project will not have an appearance, due to the proposed grading, excavation, or fill, that is substantially and negatively different from the existing natural appearance;
- b. The proposed project will not result in geologic or topographic instability on or near the site;
- c. The proposed project will not endanger public sewers, storm drains, watercourses, streets, street improvements, or other property; will not interfere with existing drainage courses, and will not result in debris being deposited on any public way;
- d. The proposed project will conform, where applicable, to special concerns relating to the adopted seismic safety element and concerns shown on maps issued by the U.S. Geological Survey and the California Division of Mines and Geology; supplemental data and substantiation of conclusions may be required by the Public Works Director upon city review of the reports; and
- e. The proposed project will not unacceptably affect the health, safety or welfare of adjacent residents and property owners, nor the citizens of Fremont.

The reason a preliminary grading plan is required for the project is due to the amount of excavation that must occur to accommodate the underground parking garage (approximately 12,675 cubic yards). When the project is completed, it will be situated on the same grade as the adjacent properties; the elevation of the finished ground floor will be no higher or lower than that of the adjacent buildings. A geotechnical study was conducted as part of the environmental impact analysis for the project which found that development of the site with the proper foundation construction and shoring techniques implemented during excavation of the garage will not result in geologic instability on or adjacent to the property. The Engineering Division has also reviewed the grading plan and placed conditions on the project to ensure that the development does not damage existing infrastructure or pose a safety hazard to the adjacent properties. In light of these facts, staff does not believe that the project will adversely impact the public health, safety or welfare.

*Consistency with Mixed-Use Development Standards:*

The following sections analyze the proposed project for compliance with the City's Mixed-Use Development Ordinance, FMC Section 8-22148.7. In evaluating a mixed-use development for compliance with the Mixed-use Ordinance, the Council must make the following findings:

- 1) Community integration: The development integrates into the existing community and creates an appropriate internal and external human scale, providing for pedestrian comfort and amenities;
- 2) Building and site layout: The building and site layout is adaptable and would permit future changes in land use over time. Each use is designed and positioned to achieve its maximum potential so that it performs as a whole and benefits from one another. An efficiently functioning infrastructure (i.e., parking, services, utilities, and effective mechanical, electrical, and structural systems) is incorporated in the design of the development capable of servicing each component of the development's differing demands.

- 3) Land uses: The proposed land uses are compatible with one another and with the adjacent area. The commercial uses are those which would serve the residents of the development and the surrounding area. In addition, the project includes amenities and attractions that cannot be provided in single-purpose projects, such as interesting people-oriented spaces and a public realm that can capitalize on the synergy of diverse uses.
- 4) Pedestrian-orientation: The development is able to provide safe and well-organized pedestrian access within the site and to relevant adjacent areas. All portions of the development are accessible by a direct, convenient, attractive, and comfortable system of pedestrian facilities.
- 5) Open and Public Spaces: The development provides usable public and private open space, enhances the vitality of existing commercial activity, and recognizes and responds appropriately to adjacent existing or planned public spaces (e.g., parks, civic buildings, transit stops, sidewalks, plazas, and similar spaces).
- 6) Parking: The development minimizes the amount of land developed as surface parking including implementing measures which reduce the overall amount of parking needed for the development, such as but not limited to, joint-use parking and access to public transit. Parking areas have been located where they can be conveniently and safely accessed and without difficulty from the street and within the development. On-site parking areas are designed in such a way that they do not dominate street frontage or interfere with pedestrian areas. In addition, on-street parking is located in proximity to the retail component of the development.

Community Integration: The proposal will be the first mixed-use development of its kind in the core of the Central Business District, but it has been designed in accordance with the CBD Concept Plan and will integrate well into the streetscape envisioned by the Concept Plan when adjacent properties are redeveloped in a similar fashion. There is no maximum building height limit in the C-B-D zone, but the proposal features a 4-story structure similar in height and scale to the other taller buildings in the immediate vicinity. Wide sidewalks are also provided which will ultimately tie in with a new sidewalk network designed to create a more pedestrian-friendly streetscape complete with shade trees, street furniture and bike racks.

Building & Site Layout: In an attempt to foster a pedestrian-scale environment with buildings situated up against sidewalks and parking hidden from view, the C-B-D zone does not require building setbacks. The proposal features zero setbacks along both street frontages, with only enough of a rear setback to accommodate pedestrian walkways, parking for the rear-most commercial tenant space, and the emergency vehicle access easement required by the Fire Code. Parking is located under the building and to the rear of the site. Each residential unit will share elevator and stair access from a ground-floor residential lobby in the northern corner of the building, as well as from the bottom level of the parking garage where the reserved parking for residents will be provided. The medical offices will also share a separate lobby and have elevator and stair access from the garage. Therefore, owners of the residences and medical suites need only take an elevator or staircase to the ground floor in order to patronize the commercial uses on the street level. A trash chute is also provided from the second and third floors for the convenience of the occupants.

The ground floor tenant spaces have been designed to be easily convertible from one commercial use to another, and 15-foot high ceilings are provided in each of the spaces fronting the two streets with extra room and vertical shafts leading to the roof to accommodate venting and other ductwork needed for restaurant uses. Each of the spaces has at least 30 feet of street frontage, and all but one have an average

depth of more than 50 feet consistent with the minimum dimensions prescribed by the Mixed-Use Ordinance.

Land Uses: The intent of the Mixed-Use Ordinance is to allow a mix of complimentary land uses in close proximity to each other, including retail, services and residential, to discourage driving and create a more pedestrian-friendly environment. The proposed project includes a variety of retail, service and restaurant uses on the first floor, medical offices on the second floor, and residential units on the top two floors. Retail and service commercial uses will be limited to those permitted in the C-B-D zone, while office uses will be limited to the second floor and the rear-most ground-floor commercial space only. The uses will provide a convenient array of goods and services not only for the owners of the condominiums and medical suites, but also for people working in nearby offices that are within walking distance of the site. As such, the proposal complies with the land use standards of the ordinance.

Pedestrian Orientation: The Mixed-Use Ordinance's design criteria require street frontages and pedestrian access to be clearly defined and buildings to be built to property lines (back of sidewalk) or other publicly accessible areas. The applicant has located the building up against the sidewalks on both streets and included wide sidewalks with bulb-outs and angled on-street parking to slow vehicular traffic and create a safer environment for pedestrians. Storefront entrances will open onto both sidewalks, and areas for outdoor seating will be made available in front of spaces that may be occupied by restaurants. Street tree planters are proposed along both street frontages to enhance the streetscape and provide shade for pedestrians and storefronts. Street furniture and lighting will be provided along both street frontages.

Open and Public Spaces: Because the applicant is proposing a Floor Area Ratio of 1.85 on a relatively small lot (0.82 acres) in the center of the Central Business District, there is little room for open space on site. However, the plans feature 14-foot wide sidewalks capable of accommodating outdoor seating and a large bulb-out at the street corner that will feature decorative paving, shade trees and street furniture. In addition, each residential unit in the building will have a private balcony overlooking the street and/or parking lot which will help further increase safety and provide occupants with opportunities for passive outdoor space.

Parking: The proposed mix of land uses requires a total of 169 parking spaces, 97 for the medical offices (at 1 space per 200 sq. ft.), 48 for the retail uses (at 1 space per 300 sq. ft.), and 24 for the residential units (at 2 spaces per unit). The applicant is proposing to provide 133 total spaces, 115 on site and 18 on the street immediately adjacent to the site. A shared parking agreement exists between the subject property and the property next-door to the northeast which grants the applicant rights to another 27 surface spaces immediately behind the site. When counting both the on-street and shared parking in addition to the on-site parking, and assuming that half of the shared parking is available, the total parking provided amounts to 146 spaces, 23 spaces short of satisfying the City's parking requirements (see table below for complete breakdown).

Type of Parking	Spaces Required	Spaces Provided	Difference
On-site parking	169	115	
Existing shared parking		13 (assuming ½ of all available)	
Public on-street parking		18	
<b>Totals</b>	<b>169</b>	<b>146</b>	<b>-23</b>

The residential units will each have two parking spaces reserved solely for their use at all times on the bottom level of the parking garage, while the employees and customers of the medical and commercial uses will be required to share the remaining spaces. There should, however, be some efficiency in the sharing of parking between the medical and commercial uses in that demand for parking for the medical offices will be greatest during mornings before lunch and afternoons before 5:00, while peak demand for retail, restaurant and service uses will occur during midday and early evening hours and on weekends.

In addition, the Central Business District Concept Plan adopted by the City Council in November 2001 encourages granting parking reductions for mixed-use developments in the Central Business District in cases where structured or underground parking is provided and/or the project is located within ½ mile of a BART station. It also encourages exempting the first 2,500 square feet of each new retail development (up to a cumulative total of 10,000 square feet) from all parking requirements if the building is designed in a pedestrian-friendly manner with convenient access to public transportation, and when the mix of uses proposed will not have excessive overlapping of business hours. Similarly, Section 8-22007 of the Zoning Ordinance permits joint-use parking for mixed-use developments as a means of allowing parking reductions when it is clear that sufficient off-street parking exists and there is a high likelihood that people will walk to the site from nearby locations. In this case, there are numerous bus lines and a BART station all within walking distance and the project is surrounded by office developments, so it is reasonable to assume that many patrons will walk to the site instead of driving. Furthermore, the proposed design will contribute to a pedestrian-oriented environment consistent with the vision of the CBD Concept Plan and the policies of the General Plan, and there have been no complaints of inadequate parking reported by property owners in the immediate area. In light of these facts, staff supports the proposed parking reduction for this project.

*Joint-Use Parking:*

Under FMC Section 8-22007, the Council may authorize the joint use of parking spaces to satisfy a mixed-use project's parking requirements if the following criteria are met:

- 1) The normal hours of operation of such uses or activities do not substantially coincide with each other; or
- 2) The development is located near available on-street parking or other public parking areas; or
- 3) Transit alternatives are available near the development; or
- 4) For mixed-use developments, residential and commercial parking demand often occurs at different times of the day. (This finding is not applicable since the applicant is proposing to provide reserved parking for the 12 residential units.)

In this case, the project will feature a mix of uses whose peak business hours vary enough that there should be sufficient parking to accommodate the demands of each. Medical offices and personal service uses generally have their peak business hours during morning and afternoons, while retail uses have theirs on early evenings and weekends and restaurants have theirs around lunch and dinner hours. Furthermore, the applicant will be providing 18 on-street parking spaces immediately adjacent to the project site and the Central Business District Concept Plan prescribes on-street parking on many of the streets in the immediate vicinity, so additional spaces will become available nearby as the CBD is built out in accordance with the Concept Plan. And finally, there are a number of AC Transit bus lines that provide service along Mowry Avenue and Paseo Padre Parkway with stops within walking distance. Finally, the Fremont BART station is located less than ½ mile from the site. A condition of approval has

been included requiring a legal agreement to be submitted to the City to the satisfaction of the City Attorney which guarantees that the shared parking will be maintained for joint use for the life of the project unless the developer is able to provide the required parking elsewhere in accordance with the requirements of the Zoning Ordinance.

### ***Design Analysis***

*Architecture/Design:* The proposed architecture features a variety of siding materials, roofline heights and treatments, and window shapes and sizes. The focal point of the structure is a semicircular tower element facing the street corner with an extra-high cornice at the roofline. The primary siding material used over the building is stucco, with horizontal siding featured on some of the residential units and stacked stone veneer siding applied as an accent over the tower element and along the base of the building. Storefront entrances have been designed to provide transparency into each commercial space, but overall glazing is kept relatively low so as not to expose each space to excessive sunlight from the building's prominent southwestern exposure. Each space is separated by articulated wall surfaces, and the residential units on the top two floors are stepped back significantly to provide for individual balconies over the 2<sup>nd</sup> floor and to reduce looming and shadowing effects over the sidewalks. To ensure that all of the storefronts are as transparent as possible, a condition has been included requiring transparent glass on all storefront window/door systems. Approval of a master sign program will also be required to ensure that all proposed signage is of compatible size and style prior to the installation of any signage on the building.

Throughout the review process there have been several iterations of the architectural design of the project. The original design called for an atrium-style corner tower element comprised primarily of glass (see Information Item #4), but because the tower element has a prominent southwestern exposure, staff expressed concern that there would be too much solar gain and asked the architect to address this issue in a design revision. The architect responded by significantly reducing the amount of glazing and ultimately adding stone veneer over the body of the tower element. In its report to the Planning Commission staff suggested that the Commission consider several design changes prior to taking action, and on December 11, 2008, the Commission directed the applicant to make a number of changes to the plans, including revising the building's color palette and modifying the floor plan, elevations and tower element. The previous color palette featured a variety of peach-toned and blue colors that had little variation, so the Commission asked for a wider range of colors and more muted shades. The new color palette provided by the architect features shades of beige and flesh tones. Custom metal awnings were also added to the storefronts in addition to more traditional fabric awnings on the second floor. Fabric awnings were proposed through the façade initially. The tower element with the stone veneer originally had very few openings in it, so the applicant broke it up by adding significantly larger storefront windows on the ground floor and wider windows on the upper floors. Finally, the floor plan was revised to have the entrances to the service/delivery corridor separate from the residential and public elevator lobbies so that service/delivery traffic did not have to pass through the lobbies, and the storefront of the rear-most commercial space was given greater visibility and accessibility through the provision of parking immediately outside its entrance.

*Access/Circulation:* There is an existing shared driveway on Hastings Street at the northwest corner of the site straddling the property line that will provide secondary vehicular access to the rear of the site. The primary access to the back side of the building is provided via a new Capitol Avenue driveway. The



Capitol and Hastings driveways connect on site and also connect with the shared parking area on the property immediately to the northeast. This configuration provides connectivity to the adjacent properties and provides emergency vehicle access all the way around the rear of the building.

The underground parking garage is accessed via a new driveway on Hastings at the end of the building. Circulation through the garage is provided via two-way drive aisles and ramps. Street access for visitors and the general public (other than the occupants of the residential units) who park in the garage will be provided via the elevator and stairs that will serve the medical offices. Occupants of the residences will have their own private lobby with elevator and stairs to take them from the garage to the third floor.

*Green Building Practices:* The applicant is proposing to implement various green building features throughout the development, including using low-E, double-insulated tinted glass to minimize heat/cold transfer, low-emitting adhesives, paints and finishes, sensor-controlled lighting, and water-efficient landscaping and plumbing fixtures. Bicycle racks will also be provided at the center of the project near the street corner. In order to encourage implementation of other green building practices, a condition has been included requiring the developer to attempt to integrate Build-It-Green<sup>TM</sup> and LEED components into the final design to the maximum extent practical.

*Landscaping:* The project includes construction of all new 14-foot wide sidewalks (in accordance with the City's urban sidewalk standard) and large-canopy shade trees. Smaller planters with an assortment of accent planting will be provided on either side of the tower element at the street corner, as well as in various locations around the back of the building. A long planter running the length of the northern side of the building will double as a stormwater treatment area for runoff from a large portion of the site. Decorative textured paving will be provided to the street corner bulb-out to add visual interest at the project's focal point, and bicycle racks and street furniture will also be located in this area.

*Street Right-of-way Improvements:* The project site contains approximately 360 feet of frontage along Capitol Avenue and Hastings Street. No right-of-way dedication is needed in this case as the current property line locations correspond to the planned right-of-way widths for both streets; however the developer will install street improvements in accordance with the CBD Concept Plan, Subdivision Ordinance and Street Right-of-Way and Improvement Ordinance. The following outlines the street improvement requirements for this project:

- Capitol Avenue & Hastings Street are designated in the General Plan as collector streets and each have existing right-of-way widths of 102 feet. However, the CBD Concept Plan identifies both as "reconfigured pedestrian-oriented streets." As part of the Planned District, and consistent with the Concept Plan, the developer will implement the following street improvements including, but not limited to, removal of existing pavement, curb, gutter and sidewalk along the frontages; removal of existing traffic signage and striping; removal and relocation of storm drain facilities; installation of new pavement, curb, gutter, sidewalk and driveways; installation of diagonal parking bays within landscape planter bulb-outs; installation of street trees and tree grates; installation of pavement striping including transitional signing and striping to match existing lane configurations; and grinding and overlay to the centerline of each street or as otherwise directed by the City Engineer.

The Concept Plan identifies the portion of the property fronting Capitol Avenue as part of the retail segment of the Main Street corridor concept, and Hastings Street is also identified as a retail street in the plan. While the proposed street sections generally meet the intent of the plan by providing extra-wide sidewalks and on-street parking, the sidewalk widths have been reduced from the 16-foot width prescribed by the plan to 14 feet in order to meet current Fire Department ladder access requirements. In addition to constructing 14-foot sidewalks, the applicant will also provide 19-foot diagonal parking bays along both streets. This will enable the project to comply with the maximum setback of 33 feet currently required for ladder access by the Fire Department.

*Grading & Drainage:* The project site is approximately two feet higher than the surrounding street grades, and slopes gradually to the abutting frontage streets. Both streets have public storm drain mains and inlets which collect the existing stormwater runoff from the site. Grading for the project consists of excavating approximately twenty-two feet below existing street grades to build the underground two-story parking garage. The applicant's engineer estimates the total project grading to be 12,675 cubic yards of cut and 130 cubic yards of fill resulting in approximately 12,545 cubic yards of export. Staff has included a condition of approval requiring the developer to provide a financial guaranty (typically a bond) to backfill the excavated hole in the event the project stalls before the building is constructed.

The street improvements shall include installation of storm drain inlets and valley gutters to collect stormwater runoff from the newly paved areas. The runoff from the re-constructed pavement areas will be treated in landscape-based treatment BMPs before connecting to existing public storm drain facilities. The details of the proposed on-site and off-site storm drainage system will be included with the final improvement plans for the project. The drainage system shall be subject to the approval of the City Engineer and the Alameda County Flood Control and Water Conservation District.

*Urban Runoff Clean Water Program:* The Alameda Countywide National Pollution Discharge Elimination System (NPDES) Municipal Stormwater Permit requires all new development to incorporate measures to prevent pollutants from being conveyed in stormwater runoff into the public storm drain system. This project is required to comply with the NPDES permit requirements by incorporating stormwater treatment measures into the project design. The applicant intends to meet the on-site quantitative stormwater treatment requirements by installing a 150-foot long vegetative bio-swale along the northern side of the building to treat 73% of the total lot (impervious and pervious) area. The remaining 27% of lot area will be treated by an on-site stormwater treatment unit in the form of an underground vault with media-based filter cartridges. The reconstructed pavement areas along the project's street frontage shall be treated by landscape-based methods through the installation of two in-ground bio-infiltration planters at the intersection of Capitol and Hastings in the expanded sidewalk areas. The stormwater treatment design shall be integrated into the storm drain design for the project and shall be subject to review and approval of the City Engineer prior to issuance of building permit.

***Planning Commission Recommendation:*** On December 11, 2008 the Planning Commission reviewed the project and directed the applicant to make various revisions to the building's architecture, floor plan and colors/materials palette. The applicant worked with staff to revise the plans in accordance with the Commission's directions (see "*Architecture/Design*" section above), and the item returned to the Commission on January 8, 2009 at which time the Commission recommended City Council approval by a unanimous vote of 5-0-0-0-1 (one absent and one seat vacant).

**Environmental Review:** An Initial Study and Draft Mitigated Negative Declaration were prepared for the project. The Initial Study determined that the project could have a potential adverse impact on air quality through the generation of dust during excavation and construction activities, and that noise from adjacent roadways could have a significant impact on the building's occupants. Because the project could have significant environmental impacts, a Draft Mitigated Negative Declaration was prepared and circulated for public review for 20 days from November 20, 2008 through December 10, 2008 in accordance with the requirements of the California Environmental Quality Act (see Exhibit "A"). No comments on the draft environmental document were received during the public review period. The applicant has agreed to implement mitigation measures that would reduce the impacts the project may have to a less-than-significant level, and these mitigation measures have been included as conditions of approval on the project. As such, staff recommends the City Council adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan as presented in Exhibit "A". A copy of the Initial Study is attached as Informational Item #1.

**Public Notice and Comment:** A total of 370 notices were mailed to the owners and occupants of all properties within approximately 300 feet of the site on January 28, 2009. A Public Hearing Notice was also published in The Tri-City Voice on the same date. No comments from the public were received prior to the publishing of this report.

#### **ENCLOSURES:**

- Draft Ordinance
- Exhibit A – Mitigated Negative Declaration & Mitigation Monitoring Plan
- Exhibit B – Rezoning to Planned District P-2008-177
- Exhibit C – Planned District P-2008-177 Development Plans
- Exhibit D – Tentative Tract Map 7996
- Exhibit E – Preliminary Grading Plan
- Exhibit F – Project Findings and Conditions of Approval
- Informational Items:
  - 1. Initial Study
  - 2. Project Operations Statement from Applicant
  - 3. Project-Specific Information
  - 4. Original Building Design

#### **RECOMMENDATIONS:**

1. Hold public hearing;
2. Adopt the Mitigated Negative Declaration and Mitigation Monitoring Plan as shown in Exhibit "A", and find that this action reflects the independent judgment of the City of Fremont;
3. Find that Planned District P-2008-177, Tentative Tract Map 7996, and the proposed Precise Plan and Preliminary Grading Plan as shown in Exhibits "C", "D" and "E", respectively, are consistent with the current General Plan and fulfill the applicable requirements set for in the Fremont Municipal Code;
4. Waive full reading and introduce an ordinance rezoning the subject property from Central Business District (C-B-D) to Planned District P-2008-177, as shown on Exhibit "B", and adopting Exhibit "C" (Planned District P-2008-177 Development Plans), Exhibit "D" (Tentative Tract Map) and Exhibit

“E” (Preliminary Grading Plan) together with the findings and conditions in Exhibit “F” as the Precise Plan for P-2008-177;

5. Approve Tentative Tract Map 7996, and the proposed Preliminary Grading Plan as depicted in Exhibits “D” and “E”, respectively, based on the findings and subject to the conditions of approval contained in Exhibit “F”; and
6. Direct staff to prepare and the City Clerk to publish a summary of the above ordinance.

## **6.1 Report Out from Closed Session of Any Final Action**

**7.1 APPLICATION FOR MEMBERSHIP ON THE SAN FRANCISCO BAY RESTORATION AUTHORITY BOARD**  
**Invitation to Apply to Serve on the San Francisco Bay Restoration Authority Board**

**Contact Person:**

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**Executive Summary:** The San Francisco Bay Restoration Authority (Authority) is a new regional government agency charged with rebuilding San Francisco Bay through the raising and granting of funds to restore the Bay's critical tidal wetlands. The Authority will be governed by a board of seven members appointed by the Association of Bay Area Governments (ABAG).

**BACKGROUND:** The San Francisco Bay Restoration Authority (Authority) is a new regional government agency charged with raising and allocating resources for the restoration, enhancement, protection, and enjoyment of wetlands and wildlife habitat in the San Francisco Bay and along its shoreline. The Authority was created by the California legislature in 2008 with the enactment of AB 2954 (Lieber). The Authority's mission will be to formulate a strategy for raising local revenues to fill the funding gap. Additionally, the creation of Authority implements the primary recommendation of the report, *Greening the Bay: Financing Wetland Restoration in San Francisco Bay, 2007 (Greening the Bay)* by Save the Bay, the sponsor of AB 2954.

**Governing Board**

ABAG will appoint all seven Authority Governing Board members and the Board will be constituted as follows:

- Governing Board chair, a person with expertise in the San Francisco Bay Area Conservancy Program
- Four (4) elected officials from a bayside city or county (defined as a city or county with a geographical boundary that touches the San Francisco Bay, including the City and County of San Francisco), one each from the North, West, East and South regions of the Bay Area, as shown in the attached map;
- Two (2) elected officials of a bayside city or county and/or a regional park district, regional open-space district, or regional park and open-space district that owns or operates one or more San Francisco Bay shoreline parcels. These include the East Bay Regional Park District, Marin County Open Space District, Mid-Peninsula Open Space District, and Sonoma Open Space District.

All Governing Board members will serve at the pleasure of ABAG. However, the term of any member who ceases to hold the elected office that qualified the member for inclusion on the Governing Board will automatically and immediately terminate. ABAG has established a term of four (4) years for each Board member with the understanding that ABAG retains the discretion to replace a Board member prior to the expiration of the term and that there are no formal term limits.

Interested persons are asked to complete and return a Statement of Interest form by February 13, 2009. After review of all Statements of Interest, the best qualified individuals will be invited to interview with ABAG's President, Supervisor Rose Jacobs Gibson, County of San Mateo. Nominees will be presented to the Executive Board at its March 19th meeting for confirmation.

**ENCLOSURES:**

- [San Francisco Bay Restoration Authority Statement of Intent](#)
- [Planned Restoration Projects List](#)
- [Map of Planned Restoration Projects](#)

**RECOMMENDATION:** Consider and discuss the invitation to serve on the San Francisco Bay Restoration Authority Board.

## 8.1 Council Referrals

### 8.1.1 MAYOR WASSERMAN REFERRAL: Appointments and Reappointments to advisory bodies with terms expiring as follows:

#### **Appointments:**

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
George W. Patterson House Advisory Board	Sue Murray	December 31, 2009
Library Commission	Evelyn Tong	December 31, 2012
Planning Commission	Lisa Quan	December 31, 2010
Redevelopment Agency Relocation Appeals Board	Maryanne Koller	December 31, 2010

#### **Reappointments:**

<i>Advisory Body</i>	<i>Appointee</i>	<i>Term Expires</i>
Recreation Commission	Roman Jason Patrick Reed	December 31, 2012

ENCLOSURES: All applications on file.

### 8.1.2 MAYOR WASSERMAN REFERRAL: Update to Council Assignments to Outside Commissions, Committees, or Boards

ENCLOSURES:

- Draft Resolution
- Mayor and City Councilmember Assignments (2009-2011)

RECOMMENDATION: Adopt a resolution designating Council assignments to outside committees, commissions, and boards. This resolution modifies and replaces the resolution adopted by the Council on January 27, 2009.

## 8.2 Oral Reports on Meetings and Events



## ACRONYMS

ABAG.....	Association of Bay Area Governments	FUSD .....	Fremont Unified School District
ACCMA .....	Alameda County Congestion Management Agency	GIS .....	Geographic Information System
ACE .....	Altamont Commuter Express	GPA.....	General Plan Amendment
ACFCD.....	Alameda County Flood Control District	HARB .....	Historical Architectural Review Board
ACTA .....	Alameda County Transportation Authority	HBA .....	Home Builders Association
ACTIA.....	Alameda County Transportation Improvement Authority	HRC .....	Human Relations Commission
ACWD.....	Alameda County Water District	ICMA .....	International City/County Management Association
BAAQMD .....	Bay Area Air Quality Management District	JPA .....	Joint Powers Authority
BART .....	Bay Area Rapid Transit District	LLMD .....	Lighting and Landscaping Maintenance District
BCDC .....	Bay Conservation & Development Commission	LOCC.....	League of California Cities
BMPs .....	Best Management Practices	LOS .....	Level of Service
BMR .....	Below Market Rate	MOU .....	Memorandum of Understanding
CALPERS.....	California Public Employees' Retirement System	MTC.....	Metropolitan Transportation Commission
CBD .....	Central Business District	NEPA .....	National Environmental Policy Act
CDD.....	Community Development Department	NLC.....	National League of Cities
CC & R's .....	Covenants, Conditions & Restrictions	NPDES.....	National Pollutant Discharge Elimination System
CDBG .....	Community Development Block Grant	NPO.....	Neighborhood Preservation Ordinance
CEQA .....	California Environmental Quality Act	PC.....	Planning Commission
CERT.....	Community Emergency Response Team	PD .....	Planned District
CIP .....	Capital Improvement Program	PUC.....	Public Utilities Commission
CMA .....	Congestion Management Agency	PVAW.....	Private Vehicle Accessway
CNG.....	Compressed Natural Gas	PWC.....	Public Works Contract
COF .....	City of Fremont	RDA .....	Redevelopment Agency
COPPS.....	Community Oriented Policing and Public Safety	RFP .....	Request for Proposals
CSAC.....	California State Association of Counties	RFQ.....	Request for Qualifications
CTC .....	California Transportation Commission	RHNA .....	Regional Housing Needs Allocation
dB .....	Decibel	ROP.....	Regional Occupational Program
DEIR.....	Draft Environmental Impact Report	RRIDRO .....	Residential Rent Increase Dispute Resolution Ordinance
DO .....	Development Organization	RWQCB .....	Regional Water Quality Control Board
DU/AC.....	Dwelling Units per Acre	SACNET .....	Southern Alameda County Narcotics Enforcement Task Force
EBRPD .....	East Bay Regional Park District	SPAA .....	Site Plan and Architectural Approval
EDAC .....	Economic Development Advisory Commission (City)	STIP .....	State Transportation Improvement Program
EIR.....	Environmental Impact Report (CEQA)	TCRDF.....	Tri-Cities Recycling and Disposal Facility
EIS .....	Environmental Impact Statement (NEPA)	T&O .....	Transportation and Operations Department
ERAF.....	Education Revenue Augmentation Fund	TOD .....	Transit Oriented Development
EVAW .....	Emergency Vehicle Accessway	TS/MRF .....	Transfer Station/Materials Recovery Facility
FAR .....	Floor Area Ratio	UBC .....	Uniform Building Code
FEMA.....	Federal Emergency Management Agency	USD.....	Union Sanitary District
FFD.....	Fremont Fire Department	VTa .....	Santa Clara Valley Transportation Authority
FMC.....	Fremont Municipal Code	WMA .....	Waste Management Authority
FPD.....	Fremont Police Department	ZTA.....	Zoning Text Amendment
FRC.....	Family Resource Center		

**UPCOMING MEETING AND CHANNEL 27  
BROADCAST SCHEDULE**

<i><b>Date</b></i>	<i><b>Time</b></i>	<i><b>Meeting Type</b></i>	<i><b>Location</b></i>	<i><b>Cable Channel 27</b></i>
February 17, 2009	6:00 p.m.	Work Session	Council Chambers	Live
February 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 3, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 10, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 17, 2009	TBD	Work Session	Council Chambers	Live
March 24, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
March 31, 2009 (5 <sup>th</sup> Tuesday)		No Meeting		
April 7, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 14, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
April 21, 2009	TBD	Work Session	Council Chambers	Live
April 28, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 4, 2009 (Monday)	4:00 p.m.	Joint City Council/FUSD Mtg.	Council Chambers	Live
May 5, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 12, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live
May 19, 2009	TBD	Work Session	Council Chambers	Live
May 26, 2009	7:00 p.m.	City Council Meeting	Council Chambers	Live